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Digital Communications Technology and New Possibilities for Private Ordering

Lawrence Friedman*

Americans tend to take for granted law and its promise of public order. We assume the regulating influence of law, as well as the authority of the institutions that produce, enforce, and apply it, including legislatures, administrative agencies, and courts. Yet it's not difficult to imagine that such events as the Supreme Court's resolution of the 2000 presidential election, the September 11 terrorist attacks, or the recent corporate accounting scandals, might undermine one's confidence in the capacity of law and legal institutions to establish order, and to safeguard health, safety, and welfare. Indeed, in light of such events, we might prefer in particular circumstances to rely upon arrangements of our own devising to secure such interests – to rely, that is, on some form of “private ordering,” by which I mean arrangements between and among individuals that establish some sense of order and that exist apart from the regimes of rules and sanctions maintained by a recognized governmental institution or actor.

Today, the ready availability and increasing sophistication of digital communications technology, from cell phones to wireless data transmission to nearly instantaneous Internet access, offer new means by which individuals can go their own way should they seek to supplant a tarnished faith in law with more personal measures. Though it is not his subject, the intersection of digital

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communications technology and a desire for private ordering resonates throughout William Gibson's 2003 novel, *Pattern Recognition*.¹ Gibson's keen observation of current trends in commerce and the uses of technology inform the action of the novel, and the story he tells offers a window through which to view a choice that modern technology now makes relevant to many individuals, in the United States and elsewhere: whether in a specific instance to opt out of the legal arrangements we take for granted in favor of self-designed alternatives.

I.

In *Pattern Recognition*, Gibson taps into the ways in which digital communications technology facilitates new efforts at private ordering. The novel tells the story of Cayce Pollard, thirty-something citizen of the world and coolhunter par excellence.² The plot is set in motion when the owner of an upscale international marketing firm asks Cayce to investigate the origins of a series of mysterious digital movies that have appeared on the Internet.³ The movies, apparently pieces of a single narrative, have attracted a large underground following, including Cayce herself.⁴ Ostensibly, the owner of the marketing firm wants to know how such a following evolves – and so, it seems, does Cayce, as she accepts this unusual assignment.

Her fact-finding investigation takes Cayce from London to Tokyo to Moscow, and everywhere it seems she is surveilled, followed, or harassed by persons whose purposes and allegiances are unknown to her. And yet, at no point does she involve – or even make any real effort to involve – law enforcement authorities in protecting her safety. Indeed, from the get-go of her investigation, the law and legal professionals are marked by their absence: Cayce and the marketing firm negotiate without counsel and pro-

1. WILLIAM GIBSON, *PATTERN RECOGNITION* (2003).

2. Coolhunters, professionals of the Internet age, spot and track trends in fashion and popular culture by, among other things, sifting through the media chatter in search of emerging patterns of behavior. On coolhunting, see Malcolm Gladwell, *The Coolhunt*, in *LIFE STORIES: PROFILES FROM THE NEW YORKER* 468 (David Remnick ed., 2001).

3. On digital movies and "Garage Kubricks," see William Gibson, *William Gibson's Filmless Festival*, *WIRED*, Oct. 1999, at 227, 227-28, available at http://www.wired.com/wired/archive/7.10/gibson_pr.html.

4. See GIBSON, *supra* note 1, at 65-66.

duce no written contract; she proceeds with her assignment on a tacit understanding of the agreement, which is apparently based upon some unspoken combination of personal trust and industry convention.⁵

Just as F. Scott Fitzgerald's accounts of the jazz age may better reflect the texture of the time than any purely historical work,⁶ Gibson gets at the present in a palpable way: he is attuned to the details of an increasingly interconnected global population that is technologically savvy, and in particular the generation under thirty for whom such interconnection is commonplace. Gibson is widely credited with coining the term "cyberspace," and his "cyberpunk" novels, including his acclaimed debut, *Neuromancer*,⁷ envision a kind of *Blade Runner*-ish tomorrow in which access to cyberspace is a life necessity, and in which large multinational corporations dominate life in a truly global economy.⁸ Notably, it is a tomorrow in which law and legal institutions as we know them – statutes, regulations, and judicial rulings; legislatures, agencies, and courts – do not feature prominently, and lawyers scarcely at all.

Perhaps Gibson anticipates that vision of tomorrow in *Pattern Recognition*, which is anchored firmly in the present.⁹ As noted above, in the course of the novel Cayce eschews reliance upon traditional legal sources of protection and avenues of redress, instead turning for assistance to the social networks that exist in the international circles in which she travels. These networks consist primarily of individuals with whom she has formed relationships that she maintains through frequent contact and communication via e-mail (Cayce utilizes an Internet-based e-mail server) and the occasional phone call. In these networks, Cayce finds security. Even when her investigation appears to place her life in danger,

5. See *id.* at 113.

6. See, e.g., F. SCOTT FITZGERALD, *THE GREAT GATSBY* (Scribners 1992) (1925); see also RONALD BERMAN, *THE GREAT GATSBY AND MODERN TIMES* (1994) (discussing Fitzgerald's attention to the contemporary world of his day).

7. WILLIAM GIBSON, *NEUROMANCER* (1984).

8. See SCOTT BUKATMAN, *BLADE RUNNER* 45-48 (1997) (discussing the influence of *Blade Runner* on Gibson's *Neuromancer*).

9. Gibson has said that *Neuromancer*, in fact, "wasn't really about the future, just as '1984' hadn't been about the future, but about 1948." William Gibson, *The Road to Oceania*, N.Y. TIMES, June 25, 2003, at A25.

she seeks assistance from members of a small community of antique technology dealers whom she knows in London, rather than going to the local police or some other governmental agent.¹⁰ These acquaintances are able, through their own connections, to provide Cayce with the information and contacts she needs to avoid the reach of those who apparently wish to do her harm, or at least to impede her investigation.¹¹

To the extent they appear at all in the novel, the traditional public sources of legal protection and avenues of redress, or their indicia, have either been co-opted or remain tangential to the characters' lives. In Russia, the bluelighted cars that Cayce sees careening around Moscow carry not police officers rushing to investigate criminal activity, but wealthy individuals headed only to daily assignments.¹² In New York, the trust and estate lawyers dealing with the legal administration of Cayce's father's estate remain off-stage – not unimportant, but certainly out of view. Indeed, they urge Cayce to supplement the inquiry into the circumstances surrounding her father's death, an effort one might reasonably expect counsel to direct and manage.¹³

II.

By the standards of the business world, and by the benchmark of common sense, Cayce's behavior throughout *Pattern Recognition* seems counterintuitive: consultants typically know to bind their engagements in legal covering, and most of us might at least think to contact the appropriate authorities if we found ourselves being surveilled or followed. In the United States, we live within a web of law maintained by governmental institutions and actors – by the possibility, for example, of enforcing agreements through litigation, and by the products of legislative and regulatory efforts meant to protect our interests. The existence of the regulatory state, as well as the availability of civil and, potentially, criminal avenues for the redress of grievances, are so much with us that we accept them as a given: we presume that government and its various agents exist to serve as buffers – to protect

10. See GIBSON, *supra* note 1, at 117-18, 214-19.

11. See *id.* at 230-44.

12. See *id.* at 279, 285.

13. See *id.* at 186-87.

us from harms beyond our control – and that there will always be a way in which to seek a remedy against or to prosecute those who have done us harm.

Still, Cayce's choices are not entirely aberrational; Gibson is in touch with what may prove to be something of a transformative moment. Notwithstanding the public order ostensibly established by the web of traditional legal rules and rights and prohibitions, there are individuals today, singly and in groups of like-minded souls, who are, at least in parts of their lives, making different arrangements. These individuals are electing to organize their relationships and affiliations in select instances without regard for the intricacies of traditional legal regulation and redress – not because they have to, but because they can. Digital communications technology, and in particular the opening of cyberspace, makes possible new opportunities to exercise a preference for private ordering.

Consider that the Internet, in addition to enabling new forms of interpersonal communication, has also become a social space whose discrete sectors feature their own developing norms of regulation and redress, many of which depart from their physical-world analogs.¹⁴ Without too much trouble you could jump onto the Internet right now and locate individuals who have come together to form on-line, virtual communities.¹⁵ Within these communities, members interact with one another regularly and substantively and, to varying degrees, arrange their personal or commercial activities through some form of consensus and mutual accommodation, rather than through a reliance upon the transposition to cyberspace of real-world legal principles, such as the formal requisites governing, say, contractual relationships for goods

14. See generally David H. Gleason & Lawrence Friedman, *Toward an Accessible Conception of Cyberspace*, 28 VT. L. REV. (forthcoming 2003) (discussing differences between cyberspatial and physical world understandings of property).

15. See HOWARD RHEINGOLD, *THE VIRTUAL COMMUNITY* 5 (1993) (referring to "virtual communities" as "social aggregations that emerge from the Net when enough people carry on . . . public discussions long enough, with sufficient human feeling, to form webs of personal relationships in cyberspace"); see also Anupam Chander, *Whose Republic?*, 69 U. CHI. L. REV. 1479, 1493-94 (2002) (book review) (discussing the ways in which the Internet may help to create communities).

and services, or for the acquisition and distribution of intellectual property.

The on-line auction service eBay illustrates the potential of a shared interest among individuals in opting out of traditional legal arrangements. Though the law of contracts still applies to their transactions, buyers and sellers who register with the service join a community of individuals who prefer to structure commercial relations as they desire, by initiating and consummating deals without resort to lawyers or the strict formalities imposed by law.¹⁶ Members can police transactions as well, primarily through the ability to comment on deals after the fact – thus allowing them not only to develop mutually beneficial relationships, but also to participate in the continual refinement of the ways in which those relationships may be productive.¹⁷

Other examples abound. By capitalizing on the software popularized by Napster and its progeny, virtual communities of music hounds seek to maximize their ability to exchange music through mutual file-sharing arrangements.¹⁸ Due to the ease with which digital objects can be copied and transmitted via the Internet, from one personal computer (or personal digital assistant, or MP3 player, or wireless telephone) to another, countless individuals in file-sharing communities can steer clear of legal regimes controlling intellectual property – if they are even aware of the existence of such regimes – and adhere instead to other arrangements.¹⁹ Those arrangements additionally enable members to form new or

16. See *eBay v. Bidder's Edge, Inc.*, 100 F. Supp. 2d 1058, 1060 (N.D. Cal. 2000) (identifying eBay as "an Internet-based, person-to-person trading site" and describing the mechanics of eBay transactions). Of course, there are still limits to the freedom eBay offers, as traditional law would continue to proscribe certain transactions, such as those involving obscene materials.

17. See Catherine Dupree, *Integrity Has Its Price*, HARV. MAG., July-Aug. 2003, at 10-11 (discussing the ways in which eBay participants have been observed interacting with one another).

18. See LAWRENCE LESSIG, *THE FUTURE OF IDEAS: THE FATE OF THE COMMONS IN A CONNECTED WORLD* 130 (2001) (discussing Napster file-sharing technology); see also Charles C. Mann, *The Year the Music Dies*, WIRED, Feb. 2003, at 90, 92 (discussing the efforts of the music industry to curb the proliferation of on-line music file-sharing services), available at http://www.wired.com/wired/archive/11.02/dirge_pr.html.

19. The individuals who share music files via the Internet may be utterly oblivious to the laws governing the acquisition of intellectual property. See LEE A. HOLLAAR, *LEGAL PROTECTION OF DIGITAL INFORMATION* 133 (2002) (noting that "it is difficult for the law to deter behavior that doesn't seem illegal").

strengthen existing relationships, by sharing not just music files but e-mailed and text-messaged information about common interests and concerns – as well as where, within the Internet, still more information may be located via a few hypertext links.²⁰

Of course, instances of communal indifference toward law and legal institutions, and an expressed preference for private ordering, are nothing new. Throughout modern history, members of close communities have adhered to social norms and structures that allowed them to manage disputes and protect their interests while forgoing reliance upon traditional, formal legal arrangements. In pre-industrial England, commercial traders abided by their own governing norms – “mercantile law” – that existed alongside the common law.²¹ And, in the seventeenth century, American colonists often sought to avoid resort to the courts; historical evidence attests to the flourishing of non-legal dispute resolution in the Massachusetts Bay Colony, as well as experiments with the arbitration of disputes in Connecticut, Pennsylvania, and South Carolina.²²

More recently, Yale law professor Robert Ellickson, in his pathbreaking work, *Order Without Law*,²³ examined the ways in which cattle ranchers and their neighbors in Shasta County, California, respected informal community norms in addressing such common issues as property damage and fence repair.²⁴ From the evidence he gathered, Ellickson hypothesized that members of a community will pursue their mutual interests by observing social norms that maximize their welfare, by and large without regard for the niceties of policing through formal regulation.²⁵ He reported that, “[i]n Shasta County, the legal designation of a terri-

20. See, e.g., John Seabrook, *The Money Note*, NEW YORKER, July 7, 2003, at 42, 51 (reporting on file-sharing trends among the college-aged).

21. See generally *LEX MERCATORIA AND LEGAL PLURALISM: A LATE THIRTEENTH-CENTURY TREATISE AND ITS AFTERLIFE* (Mary Elizabeth Basile et al. eds., 1998).

22. See JEROLD S. AUERBACH, *JUSTICE WITHOUT LAW?* 27-28 (1983).

23. ROBERT C. ELICKSON, *ORDER WITHOUT LAW: HOW NEIGHBORS SETTLE DISPUTES* (1991).

24. See *id.* at 9-11.

25. See *id.* at 282-83. Though the Shasta County ranchers formed a close-knit community, social norms may arise – and govern conduct – in looser-knit groups as well. See Lior Jacob Strahilevitz, *Social Norms from Close-Knit Groups to Loose-Knit Groups*, 70 U. CHI. L. REV. 359 (2003).

tory as open (or closed) range has no apparent effect on how residents resolved trespass or estray disputes.”²⁶ Indeed, “[t]he few landowners who actually knew there was a California statute dealing with the sharing of boundary-fence costs did not regard it as a source of entitlements.”²⁷

With advances in digital communications technology, what was a localized occurrence may now become more widespread. By allowing for new kinds of social interaction across temporal and geographical distances – as demonstrated by Cayce’s near-constant contact through the Internet with the world-wide community of film followers in *Pattern Recognition* and the relationships she has with some of its members²⁸ – technology is changing the relevant space within which individuals can form and maintain interpersonal relationships, and within which informal norms may arise to govern aspects of individuals’ conduct, in both cyberspace and the physical world.²⁹ Because they are not limited by such conventional boundaries as domestic and international borders, cyberspatial communities that stretch across time zones may contain many more members than the rancher community in Shasta County.³⁰ Thus the thousands of buyers and sellers in the eBay community need not reside in temporal or physical proximity to one another in order to interact, and what norms of commerce evolve within that community may have greater reach than those governing animal trespass.³¹

Technological development may prove a boon in particular for those who are able to forge their own paths – in *Pattern Recogni-*

26. ELLICKSON, *supra* note 23, at 282.

27. *Id.* at 283.

28. David Weinberger has observed the tendency of people to fall “into email relationships that, stretching themselves over years, imperceptibly deepen, like furrows worn into a stone hallway by the traffic of slippers.” DAVID WEINBERGER, *SMALL PIECES LOOSELY JOINED: A UNIFIED THEORY OF THE WEB* 10 (2002).

29. For example, cyberspatial norms developing around the interaction of avatars, the on-line embodiment of users, may influence behavior both in cyberspace and in the physical world. See Gleason & Friedman, *supra* note 14.

30. See Lawrence Lessig, *The Path of Cyberlaw*, 104 YALE L.J. 1743, 1745-46 (1995) (remarking that Internet technology enables individuals to “meet, and talk, and live in cyberspace in ways not possible in real-space”).

31. See Chander, *supra* note 15, at 1493 (“[T]he Internet helps create a sense of community among people with shared interests, even if they share no common homeland.” (footnote omitted)).

tion, one of the wealthiest men in Russia becomes a virtual successor to state government, running his own hospital and providing for his own security, with permission of the authorities and beyond their direct control.³² And, closer to home, corporations today frequently utilize private dispute resolution, with mutually-agreed upon rules and limits, to avoid the expense in time and money of litigating commercial claims against both individuals and other corporations in courts where results, whether from juries or judges, may lack predictability or consistency.³³ As corporate entities abandon the formal constraints of law for their own constructs, traditional avenues of legal redress – those that feature lawyers arguing claims on behalf of clients before juries and judges, in cases that may themselves accrue some precedential weight as *law* – may atrophy, becoming an option only for those who cannot afford to pursue their own private alternatives.³⁴

III.

To be sure, the present that Gibson portrays in *Pattern Recognition* is not one in which law, lawyers, and legal institutions have disappeared; rather, Gibson shows us instances in the lives of individuals who find themselves in situations in which they may plausibly elect to look after their interests, and to resolve their disputes, through means apart from those provided by traditional law – by relying, in Cayce's circumstances, upon a network of relationships established and maintained essentially on-line, or upon the tacit understandings that prevail among participants in a certain business environment. The question remains *why* someone like Cayce might elect to rely on private arrangements in her business dealings and to protect herself from harm.

No clear answer emerges in *Pattern Recognition*. One possible explanation is the potentially prohibitive cost of retaining legal counsel in respect to such matters as negotiating terms of employment. But Cayce herself makes no mention of cost as a factor,

32. See GIBSON, *supra* note 1, at 329.

33. See Kenneth S. Abraham & J.W. Montgomery, III, *The Lawlessness of Arbitration*, 9 CONN. INS. L.J. 355, 359-60 (2002-03) (examining the "lawless" features of arbitration as a means of alternative dispute resolution).

34. Ironically, it was not so long ago that commentators were suggesting the converse – that "[j]ustice according to law" would be "reserved for the affluent." AUERBACH, *supra* note 22, at 144.

and, regardless of the charge for lawyerly advice, she appears to be a person of means who could, if she were so inclined, afford to retain counsel. Moreover, the cost of retaining counsel – at least in dollar terms – would not seem to be a factor in deciding whether to seek assistance from law enforcement authorities.

Her motivation likely lies elsewhere. For Cayce, the tragedy of September 11 is pivotal and acutely felt. Her father, who was connected to the intelligence community, disappeared in Manhattan on that day, and the event haunts her throughout the novel.³⁵ The attacks raised the question whether legal bodies, like state and national governments, can sustain an effort to impose order in the world through traditional law enforcement, whether it be at the national or international level.³⁶ Like Cayce, individuals the world over came to appreciate, after September 11, that even the thickest web of regulatory and remedial authority cannot protect them completely from disorder, or the violence that may follow in disorder's wake.³⁷

Since September 11, governments have undertaken efforts to strengthen their position vis-à-vis potential terrorist attacks. In the name of security, the United States government, for example, has taken steps to expand the investigatory and enforcement powers of traditional legal institutions, like the Justice Department, and to provide increased support to local police and emergency responders.³⁸ But a more concentrated public effort to protect individuals by supplying law enforcement institutions with additional personnel or broader authority does not inevitably mean that our confidence in the ability of those institutions to protect our health and safety also will be bolstered – particularly when, as history

35. See GIBSON, *supra* note 1, at 134-37, 185-86.

36. As Harold Koh observed, following the events of September 11: "I have been struck by how many Americans – and how many lawyers – seem to have concluded that, somehow, the destruction of four planes and three buildings has taken us back to a state of nature in which there are no laws or rules." Harold Hongju Koh, *The Spirit of the Laws*, 43 HARV. INT'L L.J. 23, 23 (2002).

37. Indeed, just as Cayce's father disappeared on September 11, so too did the post-Cold War national security order of which he was a part. I'm grateful to David Gleason for reminding me of this point.

38. See *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001*, Pub. L. No. 107-56, 115 Stat. 272 (2001).

demonstrates, such efforts often have unforeseen costs.³⁹ Indeed, in *Pattern Recognition*, the emphasis on increased security remains virtually invisible, and does not discernibly influence Cayce's decisionmaking.

Even before September 11, public events could be understood to test one's confidence in such mainstays of the American legal system as the impartiality of judicial dispute resolution, and the viability of technical, command and control regulation as an ordering influence in daily affairs. In 2000, the United States Supreme Court ended the disputed presidential election with its decision in *Bush v. Gore*.⁴⁰ In a telling aside, the per curiam majority stated that the decision would have no precedential value.⁴¹ *Bush v. Gore* is thus troubling as much for its particular result, based upon an idiosyncratic construction of equal protection law,⁴² as for what it said about the Court's respect for the rule of law in general. As Margaret Jane Radin so elegantly put it, "[i]f judges are able to say with impunity that what they decide today means nothing for any case to come, the rule of law evaporates."⁴³

And, in 2001 and 2002, the regulating influence of the rule of law foundered in a significant way when the existing securities regime, built upon the Securities Act of 1933 and the Securities Exchange Act of 1934, proved unequal to the task of controlling corrupt corporate decisionmaking at companies like Enron, Worldcom and Tyco International – decisionmaking based, for all

39. See David Cole, *The New McCarthyism: Repeating History in the War on Terrorism*, 38 HARV. C.R.-C.L. L. REV. 1, 3 (2003) (arguing that the federal government's expanded use of administrative procedures to detain individuals suspected of terrorist activities "invite[s] excesses and abuses, as many innocents suffer without any evident gain in security"); cf. Shaun B. Spencer, *Security vs. Privacy: Reframing the Debate*, 79 DENV. U. L. REV. 519, 520-21 (2002) (arguing that the government's new security measures will have unintended consequences in respect to important values like privacy).

40. 531 U.S. 98 (2000).

41. See *id.* at 109 ("Our consideration is limited to the present circumstances, for the problem of equal protection in election processes generally presents many complexities.").

42. See Jack M. Balkin, *Bush v. Gore and the Boundary Between Law and Politics*, 110 YALE L.J. 1407 (2001) (criticizing the per curiam majority's equal protection analysis); see also Laurence H. Tribe, *The Unbearable Wrongness of Bush v. Gore*, 19 CONST. COMMENT. 571 (2003) (same).

43. Margaret Jane Radin, *Can the Rule of Law Survive Bush v. Gore?*, in *BUSH V. GORE: THE QUESTION OF LEGITIMACY* 110, 118 (Bruce Ackerman ed., 2002).

intents and purposes, on the avarice of corporate managers, employees, and agents.⁴⁴ Notwithstanding the complex regulations governing accounting and corporate practices related to securities, these companies – and others – successfully skirted the system, resulting in significant losses to investors. Though law enforcement agencies sought legal redress for the transgressions committed, and Congress passed new legislation designed to increase transparency, integrity and accountability in public companies,⁴⁵ still the scandals challenge established notions about the capacity of legal regulation to cabin baser human instincts – to control Oliver Wendell Holmes' archetypal "bad man" by creating incentives, through the threat of monetary sanctions or incarceration, that deter wrongdoing.⁴⁶

September 11, *Bush v. Gore*, and the corporate accounting scandals illustrate, in real and tragic ways, how the ideal of law and its promise of public order may disappoint, if not fail us entirely. In light of such events, we can grasp why an individual like Cayce – well-educated, technologically sophisticated, and acutely sensitive to the warp and woof of the world – might choose not to place her trust in the government and its agents to protect her health, safety, and welfare, or to ensure a just means through which to vindicate her rights and interests.

IV.

In Gibson's depiction of the current moment, technological developments make possible small but important moves toward more private ordering. But it's not clear what will come of such movement, just as it's not clear what kind of interconnectivity among individuals further developments will facilitate.⁴⁷ One

44. See Note, *The Good, the Bad, and Their Corporate Codes of Ethics: Enron, Sarbanes-Oxley, and the Problems with Legislating Good Behavior*, 116 HARV. L. REV. 2123, 2123 (2003).

45. *Id.*

46. See Oliver Wendell Holmes, *The Path of the Law*, 10 HARV. L. REV. 457, 459 (1897), reprinted in 78 B.U. L. REV. 699, 700 (1998) (discussing the idea of the "bad man" and observing that "[a] man who cares nothing for an ethical rule which is believed and practised by his neighbors is likely nevertheless to care a good deal to avoid being made to pay money, and will want to keep out of jail if he can").

47. It's worth noting that Cayce's technological savvy raises the question whether possibilities for private ordering will also be riven by the "digital divide." See Patricia F. First & Yolanda Y. Hart, *Access to Cyberspace: The New*

character in *Pattern Recognition* refers to a state of “liminal” time, “liminal” being her word for “thresholds, zones of transition.”⁴⁸ Cayce wonders whether she is in a liminal time. Perhaps, in the post-September 11, post *Bush v. Gore*, post-Enron world, we all are entering such a time, a zone of transition in which reliance on public ordering will be challenged by new possibilities for private arrangements. Certainly, many individuals, both within and without the United States, lately have begun to reconsider the efficacy of the legal institutions and arrangements to which they’ve grown attached. As Cayce’s experience demonstrates, we shouldn’t be surprised if public events, coupled with ever-increasing cyber and telecommunications access, inspire some individuals to seek comfort in personal resources and connections, rather than in the law as produced and enforced by governments.

Issue in Educational Justice, 31 J.L. & EDUC. 385, 385 (2002) (defining “digital divide” as the “separation of members of United States society into those with and those without access to computers and the Internet”).

48. GIBSON, *supra* note 1, at 253.

